

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

In the Matter of:

In Bankruptcy

HOLLOWAY DEVELOPMENT LLC,

Case No. 09-45849 tjt

Debtor(s).

Chapter 7

Hon. Thomas J. Tucker

TIMOTHY J. MILLER, TRUSTEE,

Plaintiff,

Adv. Pro. No.

-vs-

FIRST FEDERAL BANK,

Defendant.

TRUSTEE'S COMPLAINT TO AVOID SHERIFF'S DEED AND MORTGAGE

Timothy J. Miller, Trustee, by his attorneys Schneider Miller, P.C., says:

1. Plaintiff is the duly appointed Trustee in bankruptcy in this case.
2. Defendant is upon information and belief a federal savings bank headquartered in Defiance, Ohio, and having several branch locations and conducting significant activity in this district and a successor by merger to Lenawee Bank.
3. This adversary proceeding is brought pursuant to Federal Rules of Bankruptcy Procedure 7001(2) and (9) for entry of a judgment avoiding the Sheriff's Deed and mortgage to Defendant and preserving same for the benefit of the bankruptcy estate.
4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(b)(2)(A), (K), and (O), and 28 U.S.C. § 1334.

5. A Sheriff's Deed to Defendant affecting the real property consisting of a two acre lot with pole barns at 6389 Pocklington Road, Britton, MI was recorded March 29, 2006 at Liber 2320, Page 202, Lenawee County Records.
6. The Sheriff's Deed followed foreclosure by Defendant of a mortgage it recorded against the same real property on March 29, 2006.
7. The mortgage was granted on March 24, 2006 by Waynick Landscaping & Custom Building, Inc. (Exhibit A).
8. The Debtor was the owner of this property as of the date of the mortgage.
9. A deed by Waynick's Landscaping & Custom Building, Inc., to the Debtor was recorded March 14, 2006 (Exhibit B).
10. The mortgage to Defendant and the Sheriff's Deed to Debtor are of no force or effect and are voidable by the Plaintiff. 11 U.S.C. §544.
11. Upon avoidance, the lien of Defendant is preserved for the benefit of the estate. 11 U.S.C. §551.

WHEREFORE, Plaintiff prays for avoidance of the Sheriff's Deed and mortgage to Defendant and for preservation of same for the benefit of this estate.

SCHNEIDER MILLER, P.C.

Dated: September 10, 2009

By: /s/Anthony J. Miller
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